

106TH CONGRESS
2D SESSION

S. 2922

To create a Pension Reform and Simplification Commission to evaluate and suggest ways to enhance access to the private pension plan system.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2000

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To create a Pension Reform and Simplification Commission to evaluate and suggest ways to enhance access to the private pension plan system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pension Reform and
5 Simplification Commission Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The creation and implementation of an af-
9 fordable, accessible, equitable, efficient, cost-effec-
10 tive, and easy to understand system is essential to

1 the continuity and viability of the current private
2 pension plan system in the United States.

3 (2) There is a near universal recognition in the
4 United States that the laws that regulate our pen-
5 sion system have become unwieldy, complex, and
6 burdensome, a condition that hinders the achieve-
7 ment of increased saving and economic growth and
8 cannot be fixed by ad hoc improvements to ERISA
9 and the Internal Revenue Code of 1986.

10 (3) Significant and effective improvement of
11 laws can only be accomplished through a coordi-
12 nated, comprehensive, and sustained effort to revise
13 and simplify current laws by a high-level body of
14 pension experts, whose recommendations are then
15 transmitted to Congress.

16 (4) In recent years, the adoption of narrowly fo-
17 cused and increasingly complex statutes through
18 amendment of the Employee Retirement Income Se-
19 curity Act of 1974 (in this Act referred to as
20 “ERISA”) and the Internal Revenue Code of 1986
21 has impeded the efforts of employers and employees
22 to save for their retirement and imposed significant
23 challenges for businesses which consider establishing
24 pension plans for their workforce.

1 (5) A high national savings rate can contribute
2 significantly to the economic security of the Nation
3 as it adds to available investment capital, fuels eco-
4 nomic growth, and enhances productivity, competi-
5 tiveness, and prosperity.

6 (6) The Federal Government can potentially in-
7 crease the national savings rate through the imple-
8 mentation of policies that create an effective frame-
9 work for the spread of voluntary retirement plans
10 and the protection of the private assets held in those
11 plans.

12 (7) Private pension plans have been, and re-
13 main, the single largest repository of private capital
14 in the world and potentially act as a significant in-
15 ducement for personal saving and investment.

16 (8) Pensions represent the only hope that most
17 working Americans have an adequate supplement to
18 social security benefits, and while the private pen-
19 sion system has been greatly improved since the es-
20 tablishment of ERISA, many inequities remain, and
21 many workers are still not covered by the system.

22 (9) It is essential that all Americans, no matter
23 what their income security level, have the oppor-
24 tunity to achieve income security in their retirement
25 years. Currently, many tax and retirement incentives

1 for private pension plans, while benefiting higher in-
2 come employees who can often save adequately for
3 their retirement, do not serve sufficiently the needs
4 of low and moderate income workers.

5 (10) The current pensions rules have tended to
6 produce disparate coverage rates for low and mod-
7 erate income workers.

8 (11) The failure of the Government to modify
9 current pension policies will mean that many work-
10 ers will be deprived of the options needed to save for
11 their retirement and will, consequently, have their
12 retirement expectations minimized or eliminated.

13 (12) The failure of the Government to redress
14 the burdens imposed by over-regulation and com-
15 plexity on employer-sponsored pension plans will
16 harm employees and their families.

17 (13) The failure of the Government to redress
18 the problems related to private pension plans may
19 erode the ability of United States companies to com-
20 pete effectively in the international market and re-
21 sult in a decrease in the economic health of the Na-
22 tion.

1 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

2 There is established a commission to be known as the
3 Pension Reform and Simplification Commission (in this
4 Act referred to as the “Commission”).

5 **SEC. 4. DUTIES.**

6 (a) IN GENERAL.—The Commission shall—

7 (1) study the strengths, weaknesses, and chal-
8 lenges involved in the regulation of the current pri-
9 vate pension system;

10 (2) review and assess Federal statutes relating
11 to the regulation of the current private pension sys-
12 tem; and

13 (3) recommend changes in the law regarding
14 the regulation of the current private pension system
15 to mitigate the problems identified under subsection
16 (b), with the goal of making the system more afford-
17 able, accessible, efficient, less costly, less complex,
18 and, in general, to expand pension coverage.

19 (b) ISSUES TO BE STUDIED.—The Commission shall
20 include in the study under subsection (a) a consideration
21 of—

22 (1) the manner in which the current rules im-
23 pact private pension coverage, how such coverage
24 has changed over the last 25 years (since the enact-
25 ment of ERISA), and reasons for such change;

1 (2) the primary burdens placed on small and
2 medium business in the United States regarding ad-
3 ministration of pension plans, especially how such
4 burdens affect the tenuous position occupied by
5 these organizations in the competitive market;

6 (3) the simplification of existing pension rules
7 in order to eliminate undue costs on employers while
8 providing retirement security protection to employ-
9 ees;

10 (4) the primary obstacles to employees in gain-
11 ing optimum advantages from the current pension
12 system, with particular attention to the small and
13 medium business sector and low and moderate in-
14 come employees, including minorities and women;

15 (5) the feasibility of providing innovative design
16 options to enable small and medium businesses to be
17 relieved of complex and costly legislative and regu-
18 latory burdens in matters of adoption, operation, ad-
19 ministration, and reporting of pension plans, in
20 order to increase affordable and effective coverage in
21 that sector, for low and moderate income employees,
22 with emphasis on minorities and women;

23 (6) the means of leveling distribution of private
24 pension plan coverage between high wage earners
25 and low and moderate income workers;

1 (7) the feasibility of forward-looking reforms
2 that anticipate the needs of small and medium busi-
3 nesses in the United States given the obstacles and
4 opportunities of the new global economy, in par-
5 ticular issues related to the mobility and retention of
6 skilled workers;

7 (8) how pension plan benefits can be made
8 more portable;

9 (9) the means of achieving the expansion and
10 adoption of pension plans by United States busi-
11 nesses, especially those employing low and moderate
12 income workers who currently lack access to such
13 plans;

14 (10) the impact of expanding individual retire-
15 ment account contribution limits and income limits
16 on private pension plan coverage;

17 (11) the provision of innovative incentives that
18 encourage more employers to use existing private
19 pension plans;

20 (12) the impact of qualified plan contribution
21 and benefit limits on coverage; and

22 (13) any proposals for major simplification of
23 Federal legislation and regulation regarding quali-
24 fied pension plans, in order to address and mitigate

problem areas identified under this subsection, with the goal of—

(A) strengthening the private pension system;

(B) expanding the availability, adoption, and retention of tax-favored savings plans by all Americans;

(C) eliminating rules that burden the pension system beyond the benefits they provide, for low and moderate income workers, including minorities and women, with specific emphasis on—

(i) eligibility and coverage;

(ii) contributions and benefits;

(iii) minimum distributions, withdrawals, and loans;

(iv) spousal and beneficiary benefits;

(v) portability between plans;

(vi) asset recapture;

(vii) plan compliance and termination;

(viii) income and excise taxation; and

(ix) reporting, disclosure, and penalties; and

(D) identification of the trade-offs involved in simplification under subparagraph (C).

1 (c) REPORT.—

2 (1) IN GENERAL.—Not later than 24 months
3 after the designation of the chairperson under sec-
4 tion 5(d), the Commission shall transmit to the
5 President and Congress a report containing—

6 (A) the issues studied under subsection

7 (b);

8 (B) the results of such study;

9 (C) draft legislation and commentary
10 under paragraph (2); and

11 (D) any other recommendations based on
12 such study.

13 (2) LEGISLATIVE RECOMMENDATIONS.—The
14 Commission shall develop draft legislation and asso-
15 ciated explanations and commentary to achieve
16 major simplification of Federal legislation regarding
17 regulation of pension plans (including ERISA and
18 the Internal Revenue Code of 1986) to implement
19 any findings or recommendations of the study con-
20 ducted under subsection (b).

21 (3) RECOMMENDATIONS.—Any official findings
22 or recommendations of the Commission shall be
23 adopted by $\frac{2}{3}$ of the members of the Commission.

24 (4) MINORITY VIEWS.—All findings and rec-
25 ommendations of the Commission formally proposed

1 by any member of the Commission and not adopted
2 under paragraph (3) shall also be included in the re-
3 port.

4 **SEC. 5. MEMBERSHIP OF THE COMMISSION; RULES; POW-**
5 **ERS.**

6 (a) COMPOSITION.—

7 (1) NUMBER.—The Commission shall be com-
8 posed of 15 members, appointed not later than 45
9 days after the date of enactment of this Act.

10 (2) APPOINTMENTS.—The membership of the
11 Commission shall be as follows:

12 (A) 3 individuals appointed by the Presi-
13 dent, after consultation with the Secretary of
14 Labor and the Secretary of the Treasury, or
15 their respective designees.

16 (B) 3 individuals appointed by the major-
17 ity leader of the Senate.

18 (C) 3 individuals appointed by the minority
19 leader of the Senate.

20 (D) 3 individuals appointed by the Speaker
21 of the House of Representatives.

22 (E) 3 individuals appointed by the minor-
23 ity leader of the House of Representatives.

24 (b) QUALIFICATIONS OF MEMBERS.—

1 (1) IN GENERAL.—Individuals appointed under
2 subsection (a)(2) shall be individuals who—

3 (A) have experience in actuarial disciplines,
4 law, economics, public policy, human relations,
5 business, manufacturing, labor, multiemployer
6 pension plan administration, single employer
7 pension plan administration, or academia, or
8 have other distinctive and pertinent qualifica-
9 tions or experience in retirement policy;

10 (B) are not officers or employees of the
11 United States; and

12 (C) are selected without regard to political
13 affiliation or past partisan activity.

14 (2) OTHER CONSIDERATIONS.—In the appoint-
15 ment of members under subsection (a), every effort
16 shall be made to ensure that the individuals, as a
17 group—

18 (A) are representatives of a broad cross-
19 section of perspectives on private pension plans
20 within the United States;

21 (B) have the capacity to provide significant
22 analytical insight into existing obstacles and op-
23 portunities of private pension plans; and

24 (C) represent all of the areas of experience
25 under paragraph (1)(A).

1 (c) TERMS; VACANCIES.—

2 (1) TERMS.—Each member shall be appointed
3 for the life of the Commission.

4 (2) VACANCIES.—Any vacancy in the Commis-
5 sion shall not affect its powers and shall be filled in
6 the same manner as the appointment of the member
7 causing the vacancy.

8 (d) CHAIRPERSON; VICE CHAIRPERSON.—Not later
9 than 60 days after the date of enactment of this Act, the
10 President shall designate a chairperson and vice chair-
11 person of the Commission from the individuals appointed
12 under subsection (a)(2).

13 (e) COMPENSATION.—

14 (1) PROHIBITION OF PAY.—Except as provided
15 in subparagraph (B), members of the Commission
16 shall serve without pay.

17 (2) TRAVEL EXPENSES.—Each member of the
18 Commission may receive travel expenses, including
19 per diem in lieu of subsistence, in accordance with
20 sections 5702 and 5703 of title 5, United States
21 Code, while away from their homes or regular place
22 of business in the performance of services for the
23 Commission.

24 (f) RULES OF THE COMMISSION.—

1 (1) QUORUM.—Eight members of the Commis-
 2 sion shall constitute a quorum for conducting the
 3 business of the Commission, except 5 members of
 4 the Commission may hold hearings, take testimony,
 5 or receive evidence.

6 (2) NOTICE.—Any meetings held by the Com-
 7 mission shall be duly noticed in the Federal Register
 8 at least 14 days prior to such meeting and shall be
 9 open to the public.

10 (3) OPPORTUNITIES TO TESTIFY.—The Com-
 11 mission shall provide opportunities for representa-
 12 tives of the general public, taxpayer groups, con-
 13 sumer groups, think tanks, and State and local gov-
 14 ernment officials to testify.

15 (4) MEETINGS.—The Commission shall meet at
 16 the call of the chairperson of the Commission.

17 (5) OTHER RULES.—The Commission shall
 18 adopt such other rules as necessary.

19 (g) POWERS OF THE COMMISSION.—

20 (1) INFORMATION FROM FEDERAL AGENCIES.—

21 (A) IN GENERAL.—The Commission may
 22 secure directly from any Federal department or
 23 agency such materials, resources, data, and
 24 other information as the Commission considers
 25 necessary to carry out the provisions of this

1 section. Upon request of the chairperson of the
2 Commission, the head of such department or
3 agency shall furnish such materials, resources,
4 data, and other information to the Commission.

5 (B) COORDINATION OF RESEARCH INFOR-
6 MATION.—The Commission shall ensure effec-
7 tive use of such materials, resources, data, and
8 other information and avoid duplicative re-
9 search by coordinating and consulting with the
10 head of the appropriate research department
11 of—

12 (i) the Pension and Welfare Benefits
13 Administration of the Department of
14 Labor;

15 (ii) the Department of the Treasury;

16 (iii) the Social Security Administra-
17 tion;

18 (iv) the Small Business Administra-
19 tion;

20 (v) the Pension Benefit Guaranty
21 Corporation;

22 (vi) the National Institute on Aging;
23 and

24 (vii) private organizations which have
25 conducted research in the pension area.

1 (2) **MAILS.**—The Commission may use the
2 United States mails in the same manner and under
3 the same conditions as any other Federal agency.

4 (3) **ACCEPTANCE OF SERVICES; GIFTS; AND**
5 **GRANTS.**—The Commission may accept, use, and
6 dispose of gifts or grants of services or property,
7 both real and personal, for purposes of aiding or fa-
8 cilitating the work of the Commission. Gifts or
9 grants not used at the expiration of the Commission
10 shall be returned to the donor or grantor.

11 (4) **CONTRACT AND PROCUREMENT AUTHOR-**
12 **ITY.**—The Commission may make purchases, and
13 may contract with and compensate government and
14 private agencies or persons for property or services,
15 without regard to—

16 (A) section 3709 of the Revised Statutes
17 (41 U.S.C. 5); and

18 (B) title III of the Federal Property and
19 Administrative Services Act of 1949 (41 U.S.C.
20 251 et seq.).

21 (5) **VOLUNTEER SERVICES.**—Notwithstanding
22 section 1342 of title 31, United States Code, the
23 Commission may accept and use voluntary and un-
24 compensated services as the Commission determines
25 necessary.

1 **SEC. 6. STAFF AND SUPPORT SERVICES.**

2 (a) **EXECUTIVE DIRECTOR; STAFF.**—

3 (1) **IN GENERAL.**—The chairperson of the Com-
4 mission may, without regard to civil service laws and
5 regulations and after consultation with the Commis-
6 sion, appoint an executive director of the Commis-
7 sion and such other additional personnel as may be
8 necessary to enable the Commission to perform its
9 duties.

10 (2) **COMPENSATION.**—The chairperson of the
11 Commission may fix the compensation of the execu-
12 tive director and other personnel without regard to
13 the provisions of chapter 51 and subchapter III of
14 chapter 53 of title 5, United States Code, relating
15 to classification of positions and General Schedule
16 pay rates, except that the rate of pay for the execu-
17 tive director and other personnel may not exceed the
18 rate payable for level IV of the Executive Schedule
19 under section 5315 of such title.

20 (b) **STAFF OF FEDERAL AGENCIES.**—Upon request
21 by the chairperson of the Commission, the head of any
22 Federal department or agency may detail, on a non-
23 reimbursable basis, any of the personnel of the department
24 or agency to the Commission to assist the Commission to
25 carry out its duties under this Act and such detail shall

1 be without interruption or loss of civil service status or
2 privilege.

3 (c) ADMINISTRATIVE SUPPORT SERVICES.—The Ad-
4 ministrator of General Services shall provide to the Com-
5 mission, on a reimbursable basis, any administrative sup-
6 port services that are necessary to enable the Commission
7 to carry out this Act.

8 **SEC. 7. TERMINATION.**

9 The Commission shall terminate not later than 26
10 months after the date of enactment of this Act.

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as may be necessary to carry out the provisions of this
14 Act.

○